

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 296-08-001	Effective date and validity.
WAC 296-08-010	Appearance and practice before agency--Who may appear.
WAC 296-08-020	Appearance and practice before agency--Appearance in certain proceedings may be limited to attorneys.
WAC 296-08-025	Attorney's fees.
WAC 296-08-030	Appearance and practice before agency--Solicitation of business unethical.
WAC 296-08-040	Appearance and practice before agency--Standards of ethical conduct.
WAC 296-08-050	Appearance and practice before agency--Appearance by former employee of agency or former member of attorney general's staff.
WAC 296-08-060	Appearance and practice before agency--Former employee as expert witness.
WAC 296-08-070	Computation of time.
WAC 296-08-080	Notice and opportunity for hearing in contested cases.
WAC 296-08-090	Service of process--By whom served.
WAC 296-08-100	Service of process--Upon whom served.
WAC 296-08-110	Service of process--Service upon parties.
WAC 296-08-120	Service of process--Methods of service.
WAC 296-08-130	Service of process--When service complete.
WAC 296-08-140	Service of process--Filing with agency.
WAC 296-08-150	Subpoenas--Where provided by law--Form.
WAC 296-08-160	Subpoenas--Issuance to parties.

WAC 296-08-170	Subpoenas--Service.
WAC 296-08-180	Subpoenas--Fees.
WAC 296-08-190	Subpoenas--Proof of service.
WAC 296-08-200	Subpoenas--Quashing.
WAC 296-08-210	Subpoenas--Enforcement.
WAC 296-08-220	Subpoenas--Geographical scope.
WAC 296-08-370	Official notice--Matters of law.
WAC 296-08-380	Official notice--Material facts.
WAC 296-08-390	Presumptions.
WAC 296-08-400	Stipulations and admissions of record.
WAC 296-08-410	Form and content of decisions in contested cases.
WAC 296-08-420	Definition of issues before hearing.
WAC 296-08-430	Prehearing conference rule--Authorized.
WAC 296-08-440	Prehearing conference rule--Record of conference action.
WAC 296-08-450	Submission of documentary evidence in advance.
WAC 296-08-460	Excerpts from documentary evidence.
WAC 296-08-470	Expert or opinion testimony and testimony based on economic and statistical data--Number and qualifications of witnesses.
WAC 296-08-480	Expert or opinion testimony and testimony based on economic and statistical data--Written sworn statements.
WAC 296-08-490	Expert or opinion testimony and testimony based on economic and statistical data--Supporting data.
WAC 296-08-500	Expert or opinion testimony and testimony based on economic and statistical data--Effect of noncompliance with WAC 296-08-470 or 296-08-480.
WAC 296-08-510	Continuances.
WAC 296-08-520	Rules of evidence--Admissibility criteria.
WAC 296-08-530	Rules of evidence--Tentative admission--Exclusion--Discontinuance--Objections.
WAC 296-08-540	Petitions for rule making, amendment or repeal.
WAC 296-08-550	Petitions for rule making, amendment or repeal--Requisites.

WAC 296-08-560	Petitions for rule making, amendment or repeal--Agency must consider.
WAC 296-08-570	Petitions for rule making, amendment or repeal--Notice of disposition.
WAC 296-08-580	Declaratory rulings.
WAC 296-08-590	Forms.

NEW SECTION

WAC 296-14-955 Attorney's fees. (1) The department of labor and industries (hereinafter department) shall fix a reasonable attorney fee to be paid by the worker, crime victim, or beneficiary for services rendered with the department if written application therefor is made by the attorney, worker, crime victim, or beneficiary, as provided in RCW 51.52.120.

(a) Fees will be set only for services rendered prior to the notice of appeal;

(b) On closed claims, fees will only be set if written application is received by the department within one year from the claim closure date as indicated on the department order.

(c) If such application for fixing of a fee is made by the attorney, it shall set forth therein the monetary amount which the attorney considers reasonable for all services rendered with the department, the reason such fee is considered to be reasonable, and a detailed breakdown of the time spent by the attorney in representing the injured worker.

(d) In all instances, the department shall afford to all parties affected a minimum of ten days in which to submit comment and material information which may be helpful to the department in setting a fair and reasonable fee.

(e) The department will provide copies of information sent to the department to the attorney, worker, crime victim, or beneficiary upon request.

(f) Informal contact may be made with the parties to determine the feasibility of reaching an agreement on the amount of the fees.

(g) Additional information necessary to reach a decision may be requested by the department.

(2) *Fee fixing criteria.* All attorney fees fixed by the department where application therefor has been made shall be established in accordance with the following general principles:

(a) Only one fee shall be fixed for legal services in any one claim regardless of the number of attorneys representing the worker, crime victim, or beneficiary, except that in cases of multiple beneficiaries represented by one or multiple attorneys the department has the discretion to set more than one attorney fee if so requested.

(b) The department shall defer fixing a fee until such time as information, which it deems sufficient upon which to base a fee, is available.

(c) A fee shall be fixed only in those cases where the

attorney's services are instrumental in securing additional benefits to the worker, crime victim, or beneficiary.

(d) Where increased compensation is obtained, the fee may be fixed without regard to any medical benefits secured.

(e) In setting all fees, the following factors shall be carefully considered and weighed:

(i) Nature of the claim.

(ii) Novelty and complexity of the issues presented or other unusual circumstances.

(iii) Time and labor expended.

(iv) Skill and diligence in resolving the claim.

(v) Extent and nature of the relief.

(vi) The prevalent practice of charging contingency fees in the department.

(vii) The worker's or crime victim's circumstance and the remedial social purposes of the Industrial Insurance Act and of the Crime Victims Compensation Act, which are intended to provide sure and adequate relief to injured workers and crime victims and their families.

(3) The manager of the claims consultant division of the department is the director's designee to process all petitions to set attorney's fees and to issue orders setting those fees for services rendered by attorneys in securing industrial insurance benefits. The supervisor of the crime victims section of the department is the director's designee to process all petitions to set attorney's fees and to issue orders setting those fees for services rendered by attorneys in securing crime victims benefits.